

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JAMES E. MAXWELL,	:	
	:	
Petitioner,	:	
	:	Case No.: 5:06-cv-319(CAR)
v.	:	Petition under 28 U.S.C. § 2255
	:	
UNITED STATES OF AMERICA,	:	Criminal Case No.: 5:03-cr-93 (DF/CAR)
	:	
Respondent.	:	

***ORDER ON THE UNITED STATES MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION***

Before the Court is the United States Magistrate Judge's Recommendation [Doc. 85] that Petitioner Maxwell's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 [Doc. 73] due to ineffective assistance of counsel, be granted in part and denied in part. Petitioner filed an Objection to the Recommendation [Doc. 86].

The United States Magistrate Judge recommends that Petitioner Maxwell be returned to this Court for re-sentencing under the advisory Sentencing Guidelines in accordance with United States v. Booker, 543 U.S. 220 (2005). Having considered the applicable law and the United States Magistrate Judge's Report and Recommendation, the Court agrees with the Recommendation. Because the Court agrees with the Recommendation, Petitioner's objections are moot. Thus, the Recommendation that all of Plaintiff's claims, except Claim 7 related to Booker, be denied and that Plaintiff be re-sentenced in accordance with Booker is hereby

ADOPTED and MADE THE ORDER OF THE COURT.

SO ORDERED, this 24th day of May, 2007.

S/ C. Ashley Royal
C. ASHLEY ROYAL
UNITED STATES DISTRICT JUDGE
MIDDLE DISTRICT OF GEORGIA

SSH/aeg